IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 22820 of 2004

Between:

Andhra Cements Mining Workers Union rep by its General Secretary
U.Govardhan Rao
Durgapuram, Dachepalli (M),
Guntur Dist.A.:P.,

..... PETITIONER

AND

1Appellate Authority for Industrial&Financial Reconstruction (AAIFR)
Indra Prakash Building K.G.Marg
New Delhi-110001.
2Board for Industrial And Financial Reconstruction
Jawahar Vyapa Bhawan, 1.Tolstoy Marg,
NewDelhi.110001.
3Industiral Development Bank of India Rehabilitation Finance Dept.
IDBI Tower, Cuffe Parade,
Munmabi-400 005.
4M/s.Andhra Cements Ltd ., A. Public Ltd Company Incorporated Act,1956
Corporate Office at 2nd Floor, Chandralok Complex, 111,
S.D.Road, Secunderabad 500 003.
5Duncans Industries Ltd.,
31,Netaji Subhash Road, Kolkata-700 001.
6Joint Secretary Industries& Commerce Dept,
Secretariat Govt of A.P., Hyderabad.
7Secretary,Dept. of Industrial Development Ministry of Industry
Udyog Bhawan NewDelhi.

8Durga Estates Lotus Land Mark,
C.K.Reddy Road, Ayodhya Nagar,
Vijayawada-520 003.
9Revenue (UC-III)Dept, Secretary to Government
State Secretariat, Hyderabad.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus declaring the order passed by the 1st Respondent in Appeal Nos.223/2004 dt 9-11-2004 and 148/2004, dated 17-11-2004 directing (i) The Operating Agency appointed by BIFR to release the title deeds on pro-rata basis to the extent of payment received from DE from time to time and to register the land to the extent of sale consideration. (ii) DE to pay balance amount as per MOU dt 7-2-2003 (iii) operating Agency to keep Rs.10 Lakhs in a No Lien Bank account to be maintained by Operating Agency, as being violative of principles of natural justice, opposed to equity, justice and the very object and purpose of the SICA, and consequently set-aside the sale of assets of Respondent No.4 Company at Vijayawada and pass such other order or orders.

Counsel for the Petitioner:for Mr.P.Niroop, Advocate,

MR.BADRI.VENKATA REDDY

Counsel for the Respondent Nos.1 to 3: None

Counsel for the Respondent No.4: for Mr.S.Ravi,Advocate,

Mr. Ch. Ramesh Babu

Counsel for the Respondent No.5: None

Counsel for the Respondent No.6 and 9 : G.P. for Revenue

Counsel for the Respondent No. 7 : Mr. A. Rajasekhar Reddy, S.C. for Central Government

Counsel for the Respondent No. 8: None

The Court made the following Oral Order: (per Sri Devinder Gupta, CJ)

We have heard the learned counsel for the parties.

Petitioner questioned the legality and validity of the order passed by the Appellate Authority for Industrial & Financial Reconstruction (for short 'A.A.I.F.R.), New Delhi on 17.11.2004 disposing of Appeal Nos.148 of 2004 and 223 of 2004.

Petitioner is a Mining Workers Union represented by its Secretary and is agitated by the proposal of the company to sell part of its land situated in Vijayawada for which permission has already been accorded. Permission was granted pursuant to a direction issued by this Court in a writ petition filed by the Workers' Union. The Union has filed an appeal before B.I.F.R., which appeal was heard on 1.11.2004. There were two other appeals preferred before A.A.I.F.R., namely, Appeal No.90 of 2004 filed by Respondent No.4 and Appeal No. 148 of 2004 by M/s. Durga Estates. Appeals of M/s. Durga Estates and petitioner-association were disposed of on 17.11.2004. But, the appeal of the 4th respondent-company was kept pending. The grievance of the petitioner is that by bifurcating the three appeals, the petitioner-Union was deprived of an opportunity of being heard since workers union would be definitely interested in the order of winding up of the company and more over, what the worker's Union has been agitating is that its dues towards Provident Fund and Leave Payment towards wage arrears under the Award must be protected under the component of rehabilitation scheme, in the absence of which, rights of the workers

will be defeated.

The A.A.I.F.R., in the impugned order duly considered all the submissions made on behalf of the petitioner's counsel and concluded that though there were five unions, others were not agitating, but, only the petitioner union was agitating, whose members did not exceed 40 and dues, if any, payable to them will also not exceed in any case beyond Rs.7.5 lakhs and consequently directed that sum of Rs.10.00 lakhs be kept apart in "No lien account" maintained by the O.A. Workers' Union cannot have any objection for sale of assets unless it is demonstrated that the remaining assets will not be sufficient for recovering their dues. The question today is not for recovery of dues. But the question today is about safeguarding the amount equivalent to the amounts which might be payable to the Workers, for which A.A.I.F.R. had applied its mind and taken a decision. We see no reason to interfere with such an order passed by the A.A.I.F.R.

The writ petition is accordingly dismissed. No costs.

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DEVINDER GUPTA, CJ

Date: 9th December, 2004

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M. NARAYANA REDDY, J

Pnb

To

1 The Appellate Authority for Industrial & Financial Reconstruction

(AAIFR), Indra Prakash Building K.G.Marg,
New Delhi-110001.
2 The Board for Industrial and Financial Reconstruction
Jawahar Vyapar Bhawan, 1.Tolstoy Marg,
NewDelhi.110001.
3 The Industiral Development Bank of India Rehabilitation Finance Dept.
IDBI Tower, Cuffe Parade, Mumbai-400005.
4 M/s.Andhra Cements Limited (ACL),

(A Public Limited Company incorporated

under the Companies Act, 1956).

Corporate Office at 2nd Floor,

Chandralok Complex, 111, S.D.Road,

Secunderabad-500 003.

5 Duncans Industries Limited, 31,

Netaji Subhash Road,

Kolkata-700 001.

6 The Joint Secretary Industries& Commerce Dept,
Secretariat Govt of A.P., Hyderabad.
7 The Secretary, Dept. of Industrial Development, Ministry of Industry,
Udyog Bhawan, NewDelhi.
8 Durga Estates, Lotus Land Mark,

C.K.Reddy Road, Ayodhya Nagar,

Vijayawada-520 003.

9 Revenue (UC-III)Dept, Secretary to Government
State Secretariat, Hyderabad.

10 Two C.Cs. to Government Pleader for Revenue, High Court Buildings,

High Court of A.P. (OUT), Hyderabad.

11 Two C.D. copies